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In The
Supreme Court of the United States
OCTOBER TERM 1965

No. 1263

EASTERN AUTO DISTRIBUTORS, INC.
a corporation,

Petitioner,

v.

J. WESLEY SNYDER, d/b/a Snyder's
Auto Sales,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE FOURTH CIRCUIT

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The petitioner, Eastern Auto Distributors, Inc., prays that a writ of certiorari issue to review the judgment of the Court of Appeals for the Fourth Circuit decided February 2, 1966.

OPINIONS BELOW

The opinion of the District Court is reported at 239 F. Supp. 740 and is printed in the Appendix at pages 9-21. The opinion of the Court of Appeals, No. 10,051, 4 Cir., Feb. 2, 1966, is printed in the Appendix at pages 22-29.

JURISDICTION

The judgment sought to be reviewed was filed and entered February 2, 1966. The jurisdiction of this Court to review the judgment by writ of certiorari is conferred by 28 USC §1254 (1) (1958).

QUESTION PRESENTED

Is the special venue provision of the Automobile Dealers Franchise Act, §2, 70 Stat. 1125 (1956), 15 USC § 1222 (1958), designed and intended, as held by the court below, "to allow suit where the dealership existed" (Appendix p.p. 26,27)?

Subsidiary questions comprised herein are:

(a) Is the special venue provision of the Automobile Dealers Franchise Act, §2, 70 Stat. 1125 (1956), 15 USC §1222 (1958), supplemented or amplified by the general venue statute, 28 USC §1391 (c) (1958)?

(b) Is the focal time in determining whether venue is proper the time the cause of action arose or the time action was instituted?

(c) Is a foreign automobile manufacturer which has a franchise agreement with an automobile dealer located in a particular judicial district and which periodically sends nonresident sales and service representatives to the dealer's establishment to receive orders, supervise or suggest sales and advertising methods, and to give advice and help in servicing warranties, "found" or deemed to "have an agent" in such judicial district within the meaning of §2, 70 Stat. 1125 (1956), 15 USC §1222 (1958)?

STATUTES INVOLVED

§2, 70 Stat. 1125 (1956), 15 USC §1222 (1958):

> "An automobile dealer may bring suit against any automobile manufacturer engaged in commerce, in any district court of the United States in the district in which said manufacturer resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover the damages by him sustained and the cost of suit by reason of the failure of said automobile manufacturer from and after August 8, 1956 to act in good faith in performing or complying with any of the terms or provisions of the franchise, or in terminating, canceling, or not renewing the franchise with said dealer: *Provided*, That in any such suit the manufacturer shall not be barred from asserting in defense of any such action the failure of the dealer to act in good faith."

28 USC § 1391 (c) (1958):

> "A corporation may be sued in any judicial district in which it is incorporated or licensed to do business or is doing business, and such judicial district shall be regarded as the residence of such corporation for venue purposes."

STATEMENT OF CASE

Respondent, an automobile dealer, instituted action against petitioner, an automobile distributor, under the Automobile Dealers Franchise Act, §§1-5, 70 Stat. 1125 (1956), 15 USC §§1221-25 (1958), in the United States District Court for the Western District of South Carolina. The summons and complaint were served upon petitioner's sales representative, a resident of North Carolina, when he went, by appointment, to